

THE PETROLAR GROUP

IBLA 83-772

Decided November 29, 1983

Appeal from decision of the Colorado State Office, Bureau of Land Management, rejecting simultaneous noncompetitive oil and gas lease application C-36507.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

Under provision of 43 CFR 3102.4 a simultaneous oil and gas lease application must reveal the name of the applicant, the name of the signatory to the application, and their relationship. Where the agent's relationship to the applicant is not revealed, the regulation requires the application to be rejected. The defective application may not be cured by amendment on appeal.

APPEARANCES: Thomas R. Stahl, for the Petrolar Group.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

On behalf of the Petrolar Group, Thomas R. Stahl has appealed from the June 9, 1983, decision of the Colorado State Office, Bureau of Land Management (BLM), rejecting the simultaneous oil and gas lease application drawn first in the November 8, 1982, drawing for parcel CO-153 (C-36507). BLM found that the application did not reveal the relationship between the signatory and the potential lessee, in violation of 43 CFR 3102.4 (1982) and 43 CFR 3112.2-1(b) (1980). 1/

The record on appeal contains a copy of appellant's automated simultaneous oil and gas lease application form 3112-6a (Part B). The applicant is identified as "The Petrolar Group." In the signature blank appear the handwritten words "The Petrolar Group," accompanied by a signature, the end of

1/ The Federal oil and gas leasing regulations were revised effective Aug. 22, 1983. See 48 FR 33648 (July 22, 1983). The regulations cited in the text were in effect when the circumstances of this case arose. The revised regulations expand section 3102.4 to require that signed applications, offers, etc., be dated; the use of a qualifications number for identification purposes is also limited. Neither of these new requirements is at issue here.

which is recognizable as "Stahl." No entry appears in the blank labeled "Qualifications Serial Numbers (If Applicable)."

Thomas R. Stahl responded to the BLM decision by submitting a partnership agreement to show that he is a partner authorized to sign for the Petrolar Group. He asserts that although BLM had not issued a qualifications file serial number, his signature was on file with BLM under the partnership's BLM application number (BAN number). Appellant argues that BLM should have requested verification of his signature, rather than rejecting the application.

[1] Departmental regulation 43 CFR 3102.4 (1982) provides:

All applications, offers and requests for approval of an assignment shall be holographically (manually) signed in ink by the potential lessee or by anyone authorized to sign on behalf of the potential lessee. Documents signed by anyone other than the potential lessee shall be rendered in a manner to reveal the name of the potential lessee, the name of the signatory and their relationship.

43 CFR 3112.2-1(b) is similarly worded. In this case, nothing on the face of Petrolar's application (Part B, Form 3112-6a) specified the relationship between the signatory and the listed applicant. Nor did anything in the case record reveal that relationship until after the submission of the statement of reasons with its enclosures.

A noncompetitive oil and gas lease may be issued only to the first-qualified applicant. See 30 U.S.C. § 226(c) (1976). "If the Secretary is to fulfill his obligation to lease to the first-qualified applicant, as strict a compliance with the regulations as possible is necessary." Shearn v. Andrus, No. 77-1228, Slip Op. at 6 (10th Cir. Sept. 19, 1977), quoted in Sorensen v. Andrus, 456 F. Supp. 499, 502 (D. Wyo. 1978). Failure to comply with the regulatory requirement that lease applications be executed so as to show the relationship between the person signing the application and the applicant must result in rejection of the offer. Pioneer Farmout #1, Ltd., 76 IBLA 250 (1983); Liberty Petroleum Corp., 68 IBLA 387 (1982). Applicants under the simultaneous filing system are precluded from correcting applications after the drawing has been held because doing so would infringe upon the rights of other drawees who may be qualified. See Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067, 1070 (10th Cir. 1976).

As the appellant points out, this Board has found that 43 CFR 3112.2-1(b) (1982) was satisfied where an application referred to a current "Qualifications" file setting forth the relationship between the signatory and the applicant, even though the relationship was not apparent on the face of the application. Hercules (A Partnership), 67 IBLA 151 (1982). In United Ventures, 74 IBLA 31 (1983), this Board interpreted 43 CFR 3102.4 (1982) similarly. However, appellant's application does not refer to a qualifications file.

Appellant contends that the BAN number used on the application in place of a social security number should be sufficient to identify the signatory.

Unfortunately, it is not. The BAN is merely a computer reference code designed to reference the information contained in Part A (Form 3112-6) of the automated simultaneous oil and gas lease application. Name and address information need be encoded only one time using the Part A form. However, there is no place on Part A for signatures of any kind, nor for identification of partners, agents, or any other potential signatories.

The appellant has also inquired about the possibility of a hearing. A hearing is necessary only where there is a material issue of fact requiring resolution through the introduction of testimony and other evidence. In the absence of such issue, as is true in the instant case, no hearing is required.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Colorado State Office is affirmed.

Anne Poindexter Lewis
Administrative Judge

We concur:

Will A. Irwin
Administrative Judge

Douglas E. Henriques
Administrative Judge

